

## **EXHIBIT 4**

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U.S. Department of Justice  
Environment and Natural Resources Division  
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Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

|                               |   |                      |
|-------------------------------|---|----------------------|
| DEFENDERS OF WILDLIFE, et al. | ) |                      |
|                               | ) | Civ. No. 04-1230(GK) |
| Plaintiffs,                   | ) |                      |
|                               | ) |                      |
| v.                            | ) |                      |
|                               | ) |                      |
| GALE NORTON, et al.,          | ) |                      |
|                               | ) |                      |
| Defendants.                   | ) |                      |

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**DEFENDANTS' NOTICE OF FILING ADMINISTRATIVE RECORD  
FOR JOINT COUNTERPART ENDANGERED SPECIES ACT  
CONSULTATION REGULATIONS**

PLEASE TAKE NOTICE that Defendants are hereby filing the Administrative Record of Defendants Gale Norton, United States Department of the Interior and Steven Williams, United States Fish and Wildlife Service ("FWS") for the Joint Counterpart Endangered Species Act Section 7 Consultation Regulations for National Fire Plan projects. Attached hereto as Exhibit 1

is the certification of Johnny Hunt, FWS. Attached hereto as Exhibit 2 is the Index to the Administrative Record. Attached hereto as Exhibit 3 is an index of each document withheld on the basis of privilege.

Dated: February 11, 2004

Respectfully submitted,

THOMAS L. SANSONETTI  
Assistant Attorney General  
Environment and Natural Resources Division  
JEAN E. WILLIAMS, Chief  
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Wildlife and Marine Resources Section

s/ Kristen Byrnes Floom  
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## CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the Administrative Record of Defendants Gale Norton, United States Department of the Interior and Steven Williams, United States Fish and Wildlife Service ("FWS"), for the Joint Counterpart Endangered Species Act Section 7 Consultation Regulations for National Fire Plan projects were served on the 11th day of February, 2005 by hand delivery to:

Eric R. Glitzenstein  
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Counsel for Intervenors

/s/ Kristen Byrnes Floom  
KRISTEN BYRNES FLOOM

# United States of America

## DEPARTMENT OF THE INTERIOR

Washington, D.C.

*I certify that the official records of the Department of the Interior identified below are in my legal custody and attest that each annexed paper is a true copy of a document comprising part of the official records of the Department of the Interior:*

An administrative record prepared for CIVIL ACTION NO. 04-1230 (GK), UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA (Defenders of Wildlife, et al., Plaintiffs v. Gale Norton, et al., Defendants)

Volume 1 (Index and pp A-1 through C99)

Volume 2 (pp D-1 through F-115)

Volume 3 (pp G-1 through G-185)

Volume 4 (pp H-1 through J-143)

Volume 5 (un-numbered 269 pages identified as "FWS comments, Public Comments - 1st and 2nd Comment Period, Public Comments 2 & 3")

Volume 6 (un-numbered 289 pages identified as "Interagency emails 01/03-04/03")

Volume 7 (un-numbered 429 pages identified as "Interagency emails 05/03-12/03")

Volume 8 (un-numbered 434 pages identified as "Interagency emails 01/04-04/04")

1 compact diskette - "Comments on Counterpart Regs. Healthy Forest Initiative"

*IN TESTIMONY WHEREOF, I have subscribed my name, and caused the seal of the Department of the Interior to be affixed on this 11th day of February, 2005*

SIGNATURE

TITLE:

OFFICE:

*Gale Norton*  
FWS Records Officer

Div., Policy and Directives Management

02/11/05

**NOTE:**

Program has indicated the administrative record is complete - though the associated index may not be as comprehensive as is required.

However, due to the expected receipt by DOJ, the index could not be updated to comprehensively reflect the record herein.



**Johnny Hunt**  
**FWS Records Officer**

| Date      | Document                                                                                                                  | Page Number |
|-----------|---------------------------------------------------------------------------------------------------------------------------|-------------|
| 31-Jan-03 | meeting notes- From: Rick Sayers with Clint Riley                                                                         |             |
| 30-Jan-03 | Fax - To Ann Klee From: Anne Badgley                                                                                      |             |
| 30-Jan-03 | Email-To: Morgan, From: Barry Thom, Re: Healthy Forest Questions/comments,                                                |             |
| 29-Jan-03 | Attendees from mtg                                                                                                        |             |
| 29-Jan-03 | Michelle's mtg notes on draft of regulations                                                                              |             |
| 29-Jan-03 | Email - From: Marc Bosch To: Michelle/Rick/Olwell Re: List of activities that could potentially be covered by regulation. |             |
| 29-Jan-03 | Email - From: Morgan To: Healthy Forest group, NMFS, Regional FWS Re: Counterpart Reg. Outline                            |             |
| 28-Jan-03 | Email - From: Thom To: Morgan/Yip Re: comments on draft counterpart regs                                                  |             |
| 28-Jan-03 | Email - From: Thom To: Morgan/NMFS Re: comments on draft counterpart regs                                                 |             |
| 28-Jan-03 | Morgan's notes from Internal FWS mtg                                                                                      |             |
| 28-Jan-03 | Email - From: Morgan To: NMFS, Regional FWS Re: New draft of counterpart regs                                             |             |
| 27-Jan-03 | Email - From: Bosch To: Morgan, Sayers, BLM/NPS/NMFS Re: C'part regs comments                                             |             |
| 27-Jan-03 | Email - From: Morgan To: NMFS, Regional FWS Re: draft of counterpart regs                                                 |             |
| 27-Jan-03 | Email - From: Morgan To: Regional FWS Re: counterpart regs                                                                |             |
| 27-Jan-03 | Email - From: Thom to NMFS/Morgan Re: schedule for the counterpart regs                                                   |             |
| 27-Jan-03 | Email - From: Morgan To: Regional FWS Re: counterpart regs                                                                |             |
| 22-Jan-03 | Attendees from mtg                                                                                                        |             |
| 22-Jan-03 | Morgan's notes from mtg                                                                                                   |             |
| 22-Jan-03 | Email - From: Morgan To: Regional FWS Re: response to comments on the counterpart regs                                    |             |
| 22-Jan-03 | NMFS comments on 1/22/03                                                                                                  |             |
| 22-Jan-03 | Email - From: Morgan To: NMFS Re: comments on the revisions                                                               |             |
| 17-Jan-03 | Email - From: Morgan To: Healthy Forest group, NMFS, Solicitor Re: Counterpart Reg. v2                                    |             |
| 16-Jan-03 | Email - From: Morgan To: Thom Re: Do we need to do NEPA?                                                                  |             |
| 16-Jan-03 | Email - From: Thom To: Morgan Re: comments on regs                                                                        |             |
| 16-Jan-03 | Email - From: Morgan To: NMFS Re: current draft of regs                                                                   |             |
| 15-Jan-03 | Morgan's mtg notes                                                                                                        |             |
| 15-Jan-03 | Attendees from mtg                                                                                                        |             |
| 19-Nov-02 | Email From: Sayers To: Frazer Re: points from mtg w/ Knowles and Klee                                                     |             |
| 18-Nov-02 | Email From: Thom To: Sayers/NMFS Re: comments on counterpart reg outline                                                  |             |
| 15-Nov-02 | Interagency mtg agenda                                                                                                    |             |
| 15-Nov-02 | Forest Service white paper on counterpart regulations                                                                     |             |
| 15-Nov-02 | Rick's handouts for Interagency mtg                                                                                       |             |
| 15-Nov-02 | Service generated white paper for interagency mtg                                                                         |             |

| Date      | Document                                                                                                                                                                                         | Page Number |
|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 25-Feb-03 | Email - From: Bosch To: Morgan/Sayers Re: LAA definition Draft                                                                                                                                   |             |
| 25-Feb-03 | Handout from: Forest Service during meeting, Definition of NFP                                                                                                                                   |             |
| 25-Feb-03 | Handout from Forest Service during meeting Re: Master Consultation agreement for implementation of alternative consultation procedures                                                           |             |
| 25-Feb-03 | Email-To: Morgan, Sayers, Gladen, Bosch, From: William LeVere, Re: Counterpart Reg's proposed language change                                                                                    |             |
| 25-Feb-03 | List of Participants in meeting                                                                                                                                                                  |             |
| 25-Feb-03 | Morgan's notes on regulation.v6 made during the meeting                                                                                                                                          |             |
| 24-Feb-03 | Email - To: Morgan From: Kristl Young Re: comments on counterpart regs.                                                                                                                          |             |
| 24-Feb-03 | Email-To: Healthy Forest Group, From: Morgan Re: Meeting tomorrow, <b>attached</b> is the regulation.v6.wpd and preamble.v3.wpd                                                                  |             |
| 21-Feb-03 | Email-To: Morgan, From: Marc Bosch, Re: Counterpart comments, <b>attached</b> regulation.Bosch_21Feb03                                                                                           |             |
| 20-Feb-03 | Email-To: Morgan, Knowles, Hovekamp, From: Dornbusch, Re: Fwd: Draft Premable for Healthy Forest Counterpart regulations.                                                                        |             |
| 20-Feb-03 | Email-To: Morgan, Knowles, Hovekamp, From: Dornbusch, Re: comments on HFI draft counterpart regs.                                                                                                |             |
| 19-Feb-03 | Email-To: Healthy Forest Group, From: Morgan Re: Counterpart regulations schedule                                                                                                                |             |
| 18-Feb-03 | Email - To: Morgan, Nilius From: Bill Leenhouts Re: Fire/NMFS section 7, Refuges need to consult with NMFS                                                                                       |             |
| 14-Feb-03 | Email-To: Healthy Forest Group, From: Sayers, Re: Draft Preamble for Healthy Forest Counterpart Regulation, <b>attached</b> preamble.v2.wpd                                                      |             |
| 14-Feb-03 | Email-To: Healthy Forest Group, From: Morgan, Re: Counterpart Reg's next version, <b>attached</b> regulation.v5.wpd                                                                              |             |
| 13-Feb-03 | Email-To: Sayers, Morgan, Knowles, Dornbusch, Mehrhoff, Olwell, Mansfield, Shepard, Thom, From: Marc Bosch Re: Draft consultation agreement, <b>attachment</b> - Counterpart reg CA 13Feb03.doc. |             |
| 11-Feb-03 | Morgan's notes from meeting                                                                                                                                                                      |             |
| 11-Feb-03 | Sayers notes from meeting                                                                                                                                                                        |             |
| 11-Feb-03 | Handout from: Forest Service during meeting, Re: consultation agreements                                                                                                                         |             |
| 11-Feb-03 | Participant list for Healthy Forest Meeting                                                                                                                                                      |             |
| 10-Feb-03 | Email From: Mizzi To: Morgan Re: comments on the counterpart reg draft.                                                                                                                          |             |



|           |                                                                                                                                                                                   |  |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 10-Feb-03 | Email-To: Knowles, Thom, Jackson, Hovekamp, Yip, Glasgow, Strach, Young, Montano, Mizzi, From: Morgan, Re: Counterpart reg's for the conference call, <b>attached</b> reg.v2.wpd. |  |
| 10-Feb-03 | Email-To: Healthy Forest Group, From: Robin Spriggs, Re: Next healthy forest meeting on Feb. 11, then on Feb. 18                                                                  |  |
| 7-Feb-03  | Morgan's meeting notes from meeting with large group and Klee                                                                                                                     |  |
| 7-Feb-03  | Participant list from meeting                                                                                                                                                     |  |
| 6-Feb-03  | Email-To: Healthy Forest Group, From: Morgan, Re: next version of counterpart reg's, <b>attachment</b> -reg.v1.wpd                                                                |  |
| 6-Feb-03  | Email - To: Morgan From: Phil Street Re: Whether refuges needs to be included in Counterpart Reg's                                                                                |  |
| 6-Feb-03  | Email - From: Barry Thom To: Morgan Re: consultation agreement and comments                                                                                                       |  |
| 5-Feb-03  | mtg notes, comments/edits from meeting between NMFS and FWS - 3 sets                                                                                                              |  |
| 5-Feb-03  | Email- From Garwin Yip (NMFS) to Morgan Re: Comments on New counterpart regs review by Thurs. am.                                                                                 |  |
| 5-Feb-03  | Email - From: Morgan To: Raye Nilius Re: Counterpart Regulations                                                                                                                  |  |
| 5-Feb-03  | Email - From Kristi Young To: Morgan Re: Counterpart regulation comments                                                                                                          |  |
| 4-Feb-03  | Email-To: NMFS, From: Morgan, Re: Counterpart reg to review by Wed., <b>attachment</b> -reg.v1.wpd                                                                                |  |
| 4-Feb-03  | Email-To: Morgan, Olwell, Wittlinger, From: Bosch, Re: attempt at scope language, <b>attached</b> - FS Scope Bosch 3Febo3.doc                                                     |  |
| 4-Feb-03  | Email - From: Bosch To: Morgan/Sayers Re:attempt at scope language                                                                                                                |  |
| 3-Feb-03  | Email-To: NMFS, Morgan, From: Thom, Re: conference call and <b>attached</b> summary of Jan. 29 <sup>th</sup> meeting                                                              |  |

| Date      | Document                                                                                                                                | Page Number |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 31-Mar-03 | Email - From: Teensma To: Morgan Re: fire paragraph in preamble                                                                         |             |
| 31-Mar-03 | Email - From: Mehrhoff To: Morgan Re: NPS paragraph for preamble                                                                        |             |
| 31-Mar-03 | Email - Sayers To: Morgan Re: Refuges surname needed on package?                                                                        |             |
| 31-Mar-03 | Email - From: Teensma To: Morgan Re: additions Klee asked for                                                                           |             |
| 31-Mar-03 | Email - From: Morgan To: Small Healthy Forest group Re: attached preamble for mtg today - with Morgan's notes from the meeting attached |             |
| 31-Mar-03 | Email - From: Morgan To: Young Re: response to question on definition of NFP projects                                                   |             |
| 27-Mar-03 | Email - From: Morgan To: Small Healthy Forest group Re: Text for preamble - Bosch notes for preamble                                    |             |
| 26-Mar-03 | Email - From: Morgan To: Klee Re: final draft version of regulation incorporating comments from meeting yesterday.                      |             |
| 26-Mar-03 | Morgans notes from meeting                                                                                                              |             |
| 25-Mar-03 | Compare v9 with v10 with Morgan's notes                                                                                                 |             |
| 25-Mar-03 | BIA and Tribal involvement in ESA process handout from meeting                                                                          |             |
| 25-Mar-03 | Forest Service proposed wording for 401.18 from meeting                                                                                 |             |
| 25-Mar-03 | Sayers edits from meeting on regulations                                                                                                |             |
| 25-Mar-03 | Sayers notes from meeting                                                                                                               |             |
| 25-Mar-03 | attendees from meeting                                                                                                                  |             |
| 24-Mar-03 | Ann Klee's comments from internal DOI mtg                                                                                               |             |
| 20-Mar-03 | Email - From: Morgan To: NMFS, Regional FWS Re: current version of Preamble and regulations                                             |             |
| 19-Mar-03 | Email - From Morgan To: Young Re: Definitions in regulations                                                                            |             |
| 19-Mar-03 | Email - From: Morgan To: Frazer Re: Counterpart reg mtgs with Ann Klee                                                                  |             |
| 14-Mar-03 | Email - From: Morgan To: Healthy Forest/NMFS Re: newest version of counterpart regulation attached                                      |             |
| 14-Mar-03 | Email - From: Morgan To: Young Re: discussion on relationships between the agencies                                                     |             |
| 14-Mar-03 | Email - From: Morgan To: Young Re: Response to your comments on the regulation                                                          |             |
| 14-Mar-03 | Email - From: Dornbush To: Morgan/NMFS Re: edits on regulation                                                                          |             |
| 14-Mar-03 | Email - From: Morgan To: NMFS, Regional FWS Re: requesting comments on regulation                                                       |             |
| 12-Mar-03 | Handouts and Notes for internal NMFS/Service mtg on definitions                                                                         |             |
| 12-Mar-03 | Morgans Notes from Internal meeting on regulations                                                                                      |             |
| 12-Mar-03 | Redline/strikeout compare of v7 to v8                                                                                                   |             |
| 11-Mar-03 | Email - From: Dornbush To: Morgan/frazer/Sayers/Knowles Re: draft of the HFI preamble for use in the meeting tomorrow                   |             |
| 10-Mar-03 | Email - From: Sayers To: Morgan Re: email from Gary on OMB review of regulation                                                         |             |
| 10-Mar-03 | Email - From: Knowles To: FWS Re: Strategic goals for hfi                                                                               |             |
| 10-Mar-03 | Michelle's notes on NMFS draft of counterpart regulations                                                                               |             |

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| 10-Mar-03 | Email - From: Dornbusch To: Morgan/Thom Re: attached are new drafts of the preamble and reg that NMFS drafted |  |
|-----------|---------------------------------------------------------------------------------------------------------------|--|

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|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 9-Mar-04 | Memorandum - From: BLM Director To: FWS Director Re: BLM's intention to enter into an ACA with Service                                                     |  |
| 9-Mar-04 | Email - From: Stein To: Interagency Team Re: updates to module 3                                                                                           |  |
| 9-Mar-04 | Email - From: Morgan To: FWS representatives Re: March 24 mtg details                                                                                      |  |
| 8-Mar-04 | Email - From: Bosch To: Interagency Team Re: suggested edits to module 3                                                                                   |  |
| 8-Mar-04 | Email - From: Garrett To: Interagency Team Re: roles in Phoenix and comments on Module 3                                                                   |  |
| 8-Mar-04 | Email - From: Murphy To: Interagency Team Re: Draft Certification Questions                                                                                |  |
| 4-Mar-04 | Email - From: Bosch To: Forest Service Re: Attached is the final FS ACA                                                                                    |  |
| 4-Mar-04 | Email - From: Sayers To: TE Chiefs Re: ACAs have been signed, next step in the process                                                                     |  |
| 3-Mar-04 | Copies of BLM and Forest Service ACA                                                                                                                       |  |
| 3-Mar-04 | Email - From: Bosch To: Interagency team/Forest Service Re: ACAs have been signed                                                                          |  |
| 3-Mar-04 | Email - From: Garrett To: Interagency team Re: preliminary comments on module 3                                                                            |  |
| 2-Mar-04 | Email - From: Sayers To: Interagency Team Re: Action agency presenting module 3                                                                            |  |
| 2-Mar-04 | Email - From: Stein To: Interagency Team Re: Action Agency presenting module 3                                                                             |  |
| 2-Mar-04 | Email - From: Olwell To: Interagency Team Re: BLMs ACA                                                                                                     |  |
| 2-Mar-04 | Email - From: Bosch To: Interagency Team Re: Forest Service ACA                                                                                            |  |
| 2-Mar-04 | Email - From: Morgan To: Action Agency presenting module 3                                                                                                 |  |
| 1-Mar-04 | Memorandum - From: Director To: Regional Directors/CNO Manager Re: Implementation of training program and request for individual attendance at Mar. 24 mtg |  |
| 1-Mar-04 | Email - From: Murphy To: Interagency Team Re: Action Agency presenting module 3                                                                            |  |
| 1-Mar-04 | Email - From: Bosch To: Interagency Team Re: FS ACA v.17                                                                                                   |  |
| 1-Mar-04 | Email - From: Garrett To: Interagency Team Re: Assignments for Phoenix meeting                                                                             |  |
| 1-Mar-04 | Email - From: Bosch To: Interagency Team Re: comments on Aca                                                                                               |  |
| 1-Mar-04 | Email - From: Sayers To: Interagency Team Re: Service concurs with redline/strikeout                                                                       |  |
| 1-Mar-04 | Email - From: Sayers To: Frazer Re: ACA is trying to get signed tomorrow                                                                                   |  |
| 1-Mar-04 | Email - From: Stein To: Interagency Team Re: documents for last week attached.                                                                             |  |

| Date      | Document                                                                                                                                  | Page Number |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 28-Apr-03 | Email - From Sayers To: Klee Re: the remaining processing tasks for the regs                                                              |             |
| 23-Apr-03 | Email - From: Sayers To: NMFS, small Healthy Forests, Re: attached is the most current version                                            |             |
| 21-Apr-03 | Email - From: Sayers To: Klee Re: NEPA analysis                                                                                           |             |
| 21-Apr-03 | Email - From: Klee To: Morgan/Sayers Re: More Rutzick changes                                                                             |             |
| 18-Apr-03 | Email - From: Morgan To: Healthy Forests group, NMFS Re: Attached is Final Proposed Counterpart Regulations                               |             |
| 18-Apr-03 | Email - From: Morgan To: Klee Re: attached is final clean version of the regs + redline strikeout version                                 |             |
| 18-Apr-03 | Email - From Morgan To: NMFS Re: surname on reg package                                                                                   |             |
| 18-Apr-03 | Email-To: Knowles, Sayers, Hansel, Morgan, Peterson, From: Barry Thom, Re: Healthy Forest NEPA call summary                               |             |
| 17-Apr-03 | Fax-To: Michelle Morgan/Rick Sayers, From: John Vitello, Re: Some edits on the first few pages of preamble                                |             |
| 16-Apr-03 | Email - From: Knowles To: Sayers/Morgan/Frazer Re: NEPA on the HFI counterpart regs                                                       |             |
| 16-Apr-03 | Email - From: Teensma To: Rutzick/Morgan Re: comments on the final proposed rule                                                          |             |
| 16-Apr-03 | Email-To: Morgan, From: Sayers, Re: comments on email from Marc Bosch, commenting on the counterpart regulation                           |             |
| 15-Apr-03 | Email-To: Healthy Forest Group, From: Morgan, Re: Final Counterpart Regulation Notice, attachments frnotice.v6.wpd and Comparev6tov4.wpd. |             |
| 14-Apr-03 | Email - From: Morgan To: NMFS Re: version 5                                                                                               |             |
| 14-Apr-03 | Email - From: Sayers To: Healthy Forests Group Re: Hold all reviews we are actively reviewing v4.                                         |             |
| 14-Apr-03 | Email - From: Klee To: Rutzick Re: conflicts between my comments and yours                                                                |             |
| 14-Apr-03 | Email - From: Sayers To: Klee Re: need to discuss Rutzick comments                                                                        |             |
| 11-Apr-03 | Email - From: Teensma To: Sayers/Morgan Re: my comments need to be incorporated                                                           |             |
| 11-Apr-03 | Email - From: Sayers To: Healthy Forests Group Re: attached is a slightly revised version of the regulation FR Notice.v4                  |             |
| 10-Apr-03 | Email - From: Bosch To: Sayers/Morgan Re: one suggested change                                                                            |             |
| 9-Apr-03  | Email - From: Sayers To: Rutzick/Klee Re: Rutzick changes of 4/8/03                                                                       |             |
| 8-Apr-03  | Fax - From: Vitello To: Sayers Re: BIA comments on regs, rewrite of BIA paragraph                                                         |             |
| 8-Apr-03  | Fax - From: Shepard To: Sayers Re: one minor change                                                                                       |             |
| 8-Apr-03  | Fax - From: Mehroff To: Sayers Re: some minor wording changes/edits                                                                       |             |
| 8-Apr-03  | Email - From: Wilkinson To: Sayers/Morgan Re: you can start new subpart with any number                                                   |             |
| 8-Apr-03  | Email - From: Wilkinson To: Sayers/Morgan Re: comments on final draft counterpart regulations                                             |             |
| 8-Apr-03  | PDM edits of final proposed counterpart regs                                                                                              |             |
| 7-Apr-03  | Comments from Klee on v.2 of the proposed rule                                                                                            |             |
| 7-Apr-03  | Email - From: Sayers To: Healthy Forests Group Re: FR notice version incorporating Rutzick comments                                       |             |
| 3-Apr-03  | Email - From: Klee To: Morgan Re: Going to defer the issue of definitions for a future time.                                              |             |

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| 3-Apr-03 | Email - From: Morgan To: Healthy Forests, NMFS Re: Final draft of the FR notice v2                                |  |
| 3-Apr-03 | Email - From: Morgan To: Young Re: response to comment on informal consultation                                   |  |
| 3-Apr-03 | Email - From: Teensma To: Morgan Re: one editorial note                                                           |  |
| 3-Apr-03 | Email - From: Bosch To: Morgan Re: a few comments and editorials                                                  |  |
| 2-Apr-03 | Email - From: Mehrhoff To: Morgan Re: latest version with some NPS text included.                                 |  |
| 2-Apr-03 | Email - From: Morgan To: small Healthy Forests group Re: Revised draft of FR Notice v1 based on meeting yesterday |  |
| 2-Apr-03 | Email - From: Bosch To: Morgan Re: FS example for regulations                                                     |  |
| 1-Apr-03 | Email - From: Morgan To: small Healthy Forests group Re: revised version of the preamble v.7                      |  |
| 1-Apr-03 | Email - From: Vitello To: Morgan Re: BIA NFP project writeup                                                      |  |
| 1-Apr-03 | Email - From: Morgan To: Mehrhoff Re: need NPS short paragraph for the preamble.                                  |  |

| Date      | Document                                                                                                                      | Page Number |
|-----------|-------------------------------------------------------------------------------------------------------------------------------|-------------|
| 30-May-03 | Email - From: Stevens To: Leonard/Sayers/Morgan Re: Press Release for the Healthy Forests Initiative                          |             |
| 28-May-03 | Compare doc v 13 and v 15; Original doc with surnames                                                                         |             |
| 28-May-03 | Email - From: Solomon To: Sayers/Ludicello/Klee/Frazer/Morgan Re: OMB has cleared the latest version for publication          |             |
| 28-May-03 | Email - From: Sayers To: Solomon/Frazer/Morgan Re: Rutzick making changes to the document should coordinate those with you    |             |
| 27-May-03 | Email - From: Frazer (Actually Rick Sayers) To: Solomon Re: new version of the proposed rule                                  |             |
| 27-May-03 | Email - From: Klee To: Frazer Re: Attached are Rutzick's comments as we discussed                                             |             |
| 23-May-03 | Fax From: Frazer To: Sayers Re: The outreach package for the proposed rule is attached                                        |             |
| 23-May-03 | Fax From: Frazer To: Pam Beverly Re: Attached are the 12866 forms, the proposed rule was provided to Solomon electronically   |             |
| 23-May-03 | Email - From: Sayers To: Klee re: revised version of the FR notice.v13 + an attached note discussing the OMB and DOJ comments |             |
| 23-May-03 | Note to the file - From: Sayers Re: Discussion of 5/23/03 draft of the rule submitted to OMB                                  |             |
| 16-May-03 | Email - From: Wilkinson To: Morgan Re: comments on the new proposed rule, which has changed a lot from last version           |             |
| 16-May-03 | Email - From: Frazer To: Klee Re: attached briefing paper and talking points for briefing the Secretary                       |             |
| 15-May-03 | Email - From: Morgan To: Jackson/Thom Re: FR notice.v12 sent to OMB                                                           |             |
| 14-May-03 | Email - From: Sayers To: Hickey/Solomon Re: attached for OMB review is the Healthy Forests counterpart regs v.12              |             |
| 14-May-03 | PDM edits on proposed rule                                                                                                    |             |
| 8-May-03  | Morgan's changes to proposed rule based on CEQ comments                                                                       |             |
| 6-May-03  | Email - From: Sayers To: Anderson (CEQ) Re: Attached is our attempt to addressing your comments                               |             |
| 2-May-03  | Comments from Don Peterson on NEPA portion of rule                                                                            |             |
| 1-May-03  | Fax - From: Anderson To: Klee Re: Minor comments on proposed rule                                                             |             |
| 1-May-03  | Fax - From: Dave Tenny To: Klee Re: edits to counterpart regulation                                                           |             |
| 1-May-03  | Environmental Action Statement - for categorical exclusion                                                                    |             |
| 1-May-03  | <b>ATTACHMENTS</b> - Surnames on proposed rule                                                                                |             |

| Date      | Document                                                                                                                         | Page Number |
|-----------|----------------------------------------------------------------------------------------------------------------------------------|-------------|
| 30-Sep-03 | Email - From: Lamont To: Morgan Re: clearance on EA/NOA package                                                                  |             |
| 30-Sep-03 | Email - From: Sayers To: Klee Re: Update on EA/NOA package                                                                       |             |
| 30-Sep-03 | Email - From: Morgan To: Jackson Re: new version of EA with Rutzick comments incorporated                                        |             |
| 29-Sep-03 | Email - From: Jackson To: Morgan Re: comments from Rutzick on EA                                                                 |             |
| 29-Sep-03 | Email - From: Sayers To: Jackson Re: slightly revised version of EANOA.v3                                                        |             |
| 25-Sep-03 | Email - From: Sayers To: Morgan Re: Ann Klee email to reopen the comment period                                                  |             |
| 22-Sep-03 | Email - From: Sayers To: Morgan Re: Rutzick comments on EA                                                                       |             |
| 16-Sep-03 | Email - From: Klee To: Morgan Re: Make this a high priority again.                                                               |             |
| 16-Sep-03 | Email - From: Morgan To: Healthy Forests Group Re: attached is a summary of the substantial public comments                      |             |
| 10-Sep-03 | Email - From: Morgan To: Thompson (BLM) Re: response to his comments on the contents of the ACAs                                 |             |
| 8-Sep-03  | Email - From: Morgan To: Healthy Forests group Re: Update on the proposed rule processing and attached EA                        |             |
| 8-Sep-03  | Email - From: Morgan To: FWS regional group Re: Attached EA for counterpart regs                                                 |             |
| 5-Sep-03  | Email - From: Boroja To: Morgan Re: R1 table of consultations completed on Fire Plan Projects                                    |             |
| 27-Aug-03 | Fax - NMFS comment on the EA                                                                                                     |             |
| 27-Aug-03 | EA with Morgan comments in the margins                                                                                           |             |
| 24-Aug-03 | Email - From: Jackson To: Morgan Re: Attached EA with NMFS # of consultations                                                    |             |
| 14-Aug-03 | Email - From: Morgan To: Jackson/Thom Re: #'s of consultations                                                                   |             |
| 14-Aug-03 | Email - From: Morgan To: Thom Re: blurb on Idaho Pilot                                                                           |             |
| 11-Aug-03 | Email - From: Thom To: Morgan Re: attached blurb on Idaho Pilot                                                                  |             |
| 6-Aug-03  | Email - From: Thom To: Morgan Re: Attached EA v2                                                                                 |             |
| 4-Aug-03  | Email - From: Morgan To: NMFS Re: attached version of EA                                                                         |             |
| 29-Jul-03 | Email - From: Thom To: NMFS/Morgan Re: need comments on the EA, specifically other alternatives                                  |             |
| 28-Jul-03 | Email - From: Morgan To: NMFS Re: attached version of EA                                                                         |             |
|           | FY 2002 Performance Report, National Fire Plan - Michelle used in formulating the EA                                             |             |
| 23-Jul-03 | Table of all sect. 7 consultation in Service used for generating data in EA                                                      |             |
| 22-Jul-03 | Email - From: Montano To: Morgan Re: R2 numbers of fire plan consultations                                                       |             |
| 21-Jul-03 | Email - From: Szymanski To: Morgan Re: R3 consultation numbers for fire                                                          |             |
| 17-Jul-03 | Email - From: Boroja To: FWS section 7 coordinators Re: request for accounting of consultations in FY 02 for fire plan projects. |             |
| 16-Jul-03 | Email - From: Jackson To: Morgan re: EA recommendations                                                                          |             |
| 15-Jul-03 | Email - From: Morgan To: Jackson Re: EA recommendations from Don Peterson.                                                       |             |
| 15-Jul-03 | Email - From: Morgan To: Jackson Re: attached very rough draft of the EA for call                                                |             |
| 9-Jun-03  | Email - From: Bosch To: Sayers Re: counterpart regs with Lynx                                                                    |             |



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| 6-Jun-03 | Memo - From: Director To: Regional Directors/CNO Manager Re:<br>Proposed Rule - Response due in 45 days   |  |
| 5-Jun-03 | FR Notice - Joint Counterpart Endangered Species Act Section 7<br>Consultation Regulations; Proposed Rule |  |

| Date      | Document                                                                                                                                  | Page Number |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 10-Dec-03 | Email - From: Sayers To: GAO Re: Attached Final Rule - ESA Counterpart Regulations + Cong Review Act Submission                           |             |
| 8-Dec-03  | Email - From: Sayers To: FWS TE Chiefs Re: Attached Final Rule - ESA Counterpart Regulations -                                            |             |
| 8-Dec-03  | Email - From: Morgan To: Healthy Forests Group Re: Attached Final Rule                                                                    |             |
| 4-Dec-03  | Email - From: Morgan To: Healthy Forests Group Re: Final Rule will be on file tomorrow                                                    |             |
| 3-Dec-03  | Comments on Final Rule from Assistant Sec. Land and Minerals                                                                              |             |
| 3-Dec-03  | Email - From: Morgan To: Healthy Forests Group Re: Press Release on Counterpart Regulations                                               |             |
| 2-Dec-03  | Email - From: Morgan To: Solomon Re: requested changes are attached                                                                       |             |
| 25-Nov-03 | Email - From: Bosch To: Forest Service Re: Forest Service changes on final rule                                                           |             |
| 25-Nov-03 | Email - From: Morgan To: Jackson Re: attached FONSI                                                                                       |             |
| 25-Nov-03 | Email - From: Klee To: Morgan Re: generate a redline version from final to proposed                                                       |             |
| 24-Nov-03 | Fax - From: Bosch To: Morgan Re: Forest Service surname                                                                                   |             |
| 24-Nov-03 | Email - From: Bosch To: Forest Service Re: surname on Final Rule                                                                          |             |
| 24-Nov-03 | Email - From: Klee To: Morgan Re: comments from Randy Bowman on the final rule.                                                           |             |
| 21-Nov-03 | Fax - From: Klee To: Morgan Re: edits to final rule                                                                                       |             |
| 20-Nov-03 | Email - From: Bowman To: Stevens Re: comments on the final rule                                                                           |             |
| 20-Nov-03 | Email - From: Wilkinson To: Morgan Re: one error                                                                                          |             |
| 19-Nov-03 | Memorandum - From: Assistant Director To: Assistant Secretary/Director/Solicitor Re: Final Rule for Counterpart Reg's - requesting review |             |
| 19-Nov-03 | Letter - From Assistant Director To: Deputy Chief, National Forest System Re: review and surname of final rule                            |             |
| 13-Nov-03 | Comments from Don Peterson (FWS NEPA expert) on Final Rule                                                                                |             |
| 13-Nov-03 | Email - From: Morgan To: Klee Re: attached is the final rule                                                                              |             |
| 10-Nov-03 | Fax - From: Vitello To: Morgan Re: response looks fine                                                                                    |             |
| 23-Oct-03 | Mtg Attendees list                                                                                                                        |             |
| 23-Oct-03 | Summary of Comments received w/ Morgan's notes from mtg                                                                                   |             |
| 22-Oct-03 | Email - From: Morgan To: healthy forests group Re: meeting confirmation for Oct. 23                                                       |             |
| 16-Oct-03 | Email - From: Bosch To: Morgan Re: comments on EA                                                                                         |             |
| 9-Oct-03  | FR Notice - Reopening comment period and notice of availability of EA                                                                     |             |

| Date      | Document                                                                                                               | Page Number |
|-----------|------------------------------------------------------------------------------------------------------------------------|-------------|
| 27-Feb-04 | Email - From: Bosch To: Interagency Team Re: Current FS version of the ACA                                             |             |
| 23-Feb-04 | Email - From: Bosch To: Interagency Team Re: Version 10 of ACA                                                         |             |
| 20-Feb-04 | Email - From: Leonard To: FWS ARDs Re: update of CR implementation plus a request for attendance at meeting            |             |
| 20-Feb-04 | Email - From: Jackson To: Morgan Re: will respond to FWS request for review of new language on APA                     |             |
| 20-Feb-04 | Email - From: Morgan To: Jackson Re: suggestion for language to clarify APA issue                                      |             |
| 20-Feb-04 | Email - From: Morgan To: Jackson/Garrett Re: suggestion on APA additions                                               |             |
| 20-Feb-04 | Email - From: Morgan To: Bosch/Garrett/Jackson Re: recommended change to ACA                                           |             |
| 20-Feb-04 | Email - From: Morgan To: Bosch Re: New ACA draft for your review                                                       |             |
| 19-Feb-04 | Email - From: Garrett To: Interagency Team Re: clarity of previous comments sent to Bosch                              |             |
| 18-Feb-04 | Email - From: Morgan To: Bosch Re: editorial and minor clarification recommendations to ACAs                           |             |
| 18-Feb-04 | Email - From: Garrett To: Interagency Team Re: NMFS comments on ACA                                                    |             |
| 17-Feb-04 | Email - From: morgan To: Bosch Re: percentages for ACA                                                                 |             |
| 17-Feb-04 | Email - From: Morgan To: Young Re: response to questions from R1                                                       |             |
| 17-Feb-04 | Email - From: Young To: Morgan Re: Western Washington comments on ACA                                                  |             |
| 17-Feb-04 | Email - From: Young To: Morgan Re: Oregon comments on ACA                                                              |             |
| 17-Feb-04 | Email - From: Young To: Morgan Re: Boise comments on ACA                                                               |             |
| 17-Feb-04 | Email - From: Young To: Morgan Re: Reno comments on ACA                                                                |             |
| 17-Feb-04 | Email - From: Young To: Morgan Re: Oregon comments on ACA                                                              |             |
| 17-Feb-04 | Email - From: Morgan To: Comman Re: response to R6 comments on ACA                                                     |             |
| 17-Feb-04 | Email - From: Morgan To: Young Re: my responses to your comments                                                       |             |
| 17-Feb-04 | Email - From: Cornman To: Morgan Re: R6 ACA Draft 7 comments                                                           |             |
| 17-Feb-04 | Email - From: Morgan To: Forest Service Re: percentages                                                                |             |
| 17-Feb-04 | Email - From: Bosch To: Forest Service Re: The percentages                                                             |             |
| 17-Feb-04 | Email - From: Bosch To: Morgan Re: some of the comments coming from Forest Service TE program leaders                  |             |
| 17-Feb-04 | Email - From: Young To: Morgan Re: my comments on the ACA                                                              |             |
| 13-Feb-04 | Memorandum - From: James Gladen - Forest Service To: Director FWS Re: Forest Service notification to enter into an ACA |             |
| 13-Feb-04 | Email - From: Ron Tucker (BLM Training Center) To: Interagency Team Re: Information on training program software       |             |
| 12-Feb-04 | Email - From: Stein To: Interagency Team Re: web-based training module update                                          |             |
| 12-Feb-04 | Email - From: Morgan To: FWS regional contacts Re: attached draft ACA for review                                       |             |
| 12-Feb-04 | Email - From: Morgan To: Sayers/Leonard Re: ACA update                                                                 |             |
| 12-Feb-04 | Email - From: Morgan To: Interagency Team Re: comments on v.5 of ACA                                                   |             |
| 12-Feb-04 | Email - From: morgan To: Bosch Re: percentages for ACA                                                                 |             |

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| 11-Feb-04 | Email - From: Morgan To: Sayers Re: Update on ACA negotiations                                                                       |  |
| 11-Feb-04 | Email - From: Morgan To: Interagency Team Re: FWS different strategy for sampling based on today's call                              |  |
| 10-Feb-04 | Email - From: Morgan To: Interagency Team Re: attached is the monitoring section for the ACA for call tomorrow                       |  |
| 10-Feb-04 | Email - From: Bosch To: Interagency Team Re: key dates on CR                                                                         |  |
| 9-Feb-04  | Email - From: Skorupa To: Morgan/Sayers Re: Percentages for Monitoring program in the ACA                                            |  |
| 9-Feb-04  | Email - From: Morgan To: NMFS Re: next version of the monitoring program                                                             |  |
| 9-Feb-04  | Email - From: Bosch To: Interagency Team Re: Counterpart Reg options - update on FS/BLM discussions                                  |  |
| 6-Feb-04  | Email - From: Jackson To: Morgan Re: meeting with FWS on Monday                                                                      |  |
| 6-Feb-04  | Email - From: Morgan To: Interagency Team Re: content of the training program                                                        |  |
| 5-Feb-04  | Email - From: Morgan To: NMFS Re: new version of the monitoring program v.3                                                          |  |
| 5-Feb-04  | Email - From: Morgan To: Interagency Team Re: Service comments on type of training program                                           |  |
| 4-Feb-04  | Email - From: Bosch To: Interagency Team Re: Summary of training options and training outline                                        |  |
| 3-Feb-04  | Email - From: Morgan To: Young Re: response to question regarding the skip in regulations                                            |  |
| 2-Feb-04  | Sayers notes on NMFS proposal                                                                                                        |  |
| 2-Feb-04  | Morgans notes on NMFS proposal                                                                                                       |  |
| 29-Jan-04 | Email - From: Morgan To: NMFS Re: rough draft of monitoring program                                                                  |  |
| 23-Jan-04 | Email - From: Morgan To: Regional FWS Re: meeting notes                                                                              |  |
| 23-Jan-04 | Attendees list from meeting                                                                                                          |  |
| 22-Jan-04 | Email - From: Garrett To: Bosch Re: attached comments on ACA for meeting tomorrow                                                    |  |
| 22-Jan-04 | Email - From: Morgan To: Bosch Re: comments on the ACA and attached monitoring program                                               |  |
| 21-Jan-04 | Email - From: Comman To: Morgan Re: Comments from R6 on Forest Service ACA                                                           |  |
| 21-Jan-04 | Email - From: Sayers To: Frazer Re: Action on ACAs                                                                                   |  |
| 21-Jan-04 | Email - From: Morgan To: Frazer Re: Action on ACAs                                                                                   |  |
| 21-Jan-04 | Email - From: Morgan To: FWS regional contacts Re: attached draft ACA for review                                                     |  |
| 15-Jan-04 | Email - From: Bosch To: Interagency team Re: training outline                                                                        |  |
| 16-Jan-04 | Fax - From: Bosch To: Sayers Re: training outline for call today                                                                     |  |
| 13-Jan-04 | Email - From: Bosch To: Forest Service Re: candidate species question                                                                |  |
| 7-Jan-04  | Email - From: Bosch To: Interagency team Re: updated ACA for call                                                                    |  |
| 24-Dec-03 | Memorandum - From: Director To: Regional Directors/CNO Manager Re: Section 7 counterpart regulations for National Fire Plan projects |  |
| 22-Dec-03 | Email - From: Bosch To: Interagency Team Re: Updated draft of ACA                                                                    |  |

| Date      | Document                                                                                                         | Page Number |
|-----------|------------------------------------------------------------------------------------------------------------------|-------------|
| 20-Apr-04 | Email - From: Morgan To: BCH Re: Review of web-based system                                                      |             |
| 14-Apr-04 | Email - From: Bosch To: Interagency Team Re: final FAQ's                                                         |             |
| 8-Apr-04  | Email - From: Stein To: Interagency Team Re: Final edits to modules needed                                       |             |
| 8-Apr-04  | Email - From: Ron Tucker To: Interagency Team Re: update on Web Training                                         |             |
| 8-Apr-04  | Email - From: Bosch To: Interagency Team Re: questions on who can access training on web                         |             |
| 7-Apr-04  | Email - From: Stein To: Interagency Team Re: April 9th is deadline for edits                                     |             |
| 7-Apr-04  | Email - From: Smith To: Interagency Team Re: deadline for training module.                                       |             |
| 5-Apr-04  | Email - From: Bosch To: Interagency Team Re: CR Implementation timeframe                                         |             |
| 5-Apr-04  | Email - From: Smith To: Interagency Team Re: Final decisions on graphics needed                                  |             |
| 2-Apr-04  | Email - From: Morgan To: Fitzsimmons Re: update on implementation of counterpart regulations                     |             |
| 31-Mar-04 | Email - From: Morgan To: Interagency Team Re: suggestions on module 1                                            |             |
| 30-Mar-04 | Email - From: Morgan To: Section 7 coordinators Re: update on the March 24 mtg from Bosch.                       |             |
| 29-Mar-04 | Email - From: Bosch To: Healthy forest group - update on implementation of CR - March 24 mtg                     |             |
| 29-Mar-04 | Email - From: Stein To: Interagency Team Re: things to complete on training modules                              |             |
| 23-Mar-04 | News Release - Federal Agencies sign agreements to continue species protection, implement forest health projects |             |
| 18-Mar-04 | Email - From: Morgan To: Stein Re: Definitions of Beneficial, Insignificant, Discountable                        |             |
| 15-Mar-04 | Email - From: Bosch To: Interagency Team Re: response to Stein on huge size of BE's                              |             |
| 15-Mar-04 | Email - From: Morgan To: Interagency Team Re: example of exposure and response concurrence memo                  |             |
| 15-Mar-04 | Email - From: Stein To: Interagency Team Re: comments on module 3 from NW                                        |             |
| 15-Mar-04 | Email - From: Sayers To: Morgan Re: Statistical Advice                                                           |             |
| 11-Mar-04 | Memorandum - From: R1 RD To: Director Re: individual representing r1 at March 24 mtg                             |             |
| 11-Mar-04 | Email - From: Stein To: Interagency team Re: comments on Module 3 and update on web based training program       |             |
| 11-Mar-04 | Email - From: Bosch To: Interagency team Re: CR training conference call                                         |             |
| 11-Mar-04 | Email - From: Garrett To: Interagency Team Re: comments on Module 3 revision                                     |             |
| 11-Mar-04 | Email - From: Morgan To: FWS representatives Re: March 24 mtg details                                            |             |
| 11-Mar-04 | Email - From: Morgan To: Interagency Team Re: my revision to module 3                                            |             |

*Defenders of Wildlife et al. v. Norton, et al.*  
*Civ. No. 04-1230*

DOCUMENTS WITHHELD FROM THE  
ADMINISTRATIVE RECORD FOR THE  
NATIONAL FIRE PLAN ENDANGERED SPECIES ACT  
SECTION 7 CONSULTATION COUNTERPART REGULATIONS, ALTERNATIVE  
CONSULTATION AGREEMENTS AND TRAINING MODULE

| DOCUMENT<br>NUMBER AND<br>SOURCE OF<br>DOCUMENT                                                                                                                        | DATE ON<br>DOCUMENT | DESCRIPTION OF<br>DOCUMENT                                                                                                                                                      | REASON TEXT<br>IS BEING<br>WITHHELD<br>AND/OR<br>REDACTED                                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| (1) E-mail from<br>Rick Sayers, FWS<br>to Gary Frazer,<br>FWS re: Healthy<br>Forests Conference<br>call                                                                | 11/19/02            | The e-mail contains<br>reference to a separate<br>topic of conversation<br>not involving the<br>counterpart regs,<br>training module or<br>ACAs; paragraph has<br>been redacted | Not relevant to<br>counterpart<br>regulations                                                                  |
| (2) E-mail from<br>Peg Romanik,<br>Office of the<br>Solicitor,<br>Department of the<br>Interior (DOI), to<br>Michelle Morgan,<br>FWS re: healthy<br>forest regulations | 01/28/03            | The e-mail contains a<br>preliminary draft of<br>language for the<br>preamble to the<br>proposed rule from<br>counsel for FWS                                                   | Attorney-Client<br>Privileged                                                                                  |
| (3) E-mail from<br>Barry Thom,<br>NOAA to Michelle<br>Morgan, FWS re:<br>Healthy Forest<br>Questions                                                                   | 01/30/03            | Attachment to e-mail is<br>withheld as it is a draft<br>document with<br>comments, related to a<br>completely separate<br>project which was in<br>development                   | Pre-decisional; not<br>relevant to<br>promulgation of<br>counterpart<br>regulations, ACA<br>or training module |
| (4) E-mail from<br>Rick Sayers, FWS<br>to NOAA, FWS and<br>other DOI agencies<br>re: final draft<br>counterpart<br>regulations                                         | 04/07/03            | Attachment is withheld<br>as it reflects comments<br>from counsel for<br>NOAA, Mark Rutzick                                                                                     | Attorney-Client<br>Privileged                                                                                  |
| (5) E-mail from                                                                                                                                                        | 04/08/03            | One sentence in the e-                                                                                                                                                          | Attorney-Client                                                                                                |

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| Gary Frazer, FWS to Michelle Morgan, FWS re: Thanks for the good work                                       |          | mail is redacted as contains a comment from Peg Romanik, Office of the Solicitor                                                | Privileged                 |
| (6) FAX from Peg Romanik, Office of the Solicitor, to Rick Sayers, FWS re: comments on the rule             | 04/08/03 | The FAX and its attachment contains comments from counsel for DOI                                                               | Attorney-Client Privileged |
| (7) E-mail from Rick Sayers, FWS to Mark Rutzick, counsel for NOAA, re: my changes of 04/08/03              | 04/09/03 | Attachments are withheld from the e-mail as they contain comments from counsel and reflect comments from counsel                | Attorney-Client Privileged |
| (8) E-mail from Rick Sayers, FWS to Healthy Forest Group re: latest revisions to counterpart regulations    | 04/11/03 | Attachment is withheld from an e-mail; attachment contains comments from Mark Rutzick, counsel for NOAA, on a draft of the rule | Attorney-Client Privileged |
| (9) E-mail from Rick Sayers, FWS to Michelle Morgan, FWS re: latest edition of counterpart regulations      | 04/13/03 | Attachment is withheld as it reflects comments from NOAA counsel Mark Rutzick                                                   | Attorney-Client Privileged |
| (10) E-mail from Michelle Morgan, FWS to Lamont Jackson, NOAA and other NOAA staff re: V5 for the FR notice | 04/14/03 | Attachment is withheld as it reflects comments from NOAA counsel Mark Rutzick                                                   | Attorney-Client Privileged |
| (11) FAX from Lynn Johnson, DOI Office of the Solicitor, to Michelle Morgan, FWS and Peggy Olwell, BLM      | 04/14/03 | FAX includes comments from DOI counsel Lynn Johnson on a draft rule                                                             | Attorney-Client Privileged |
| (12) E-mail from                                                                                            | 04/15/03 | Two attachments to the                                                                                                          | Attorney-Client            |

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| Michelle Morgan, FWS to Healthy Forests Group re: final counterpart regulations                                                 |          | e-mail are withheld as they reflect comments of Mark Rutzick, counsel for NOAA                                                                                            | Privileged                 |
| (13) E-mail from Mark Rutzick, NOAA to Michelle Morgan, FWS re: final counterpart regulations                                   | 04/16/03 | E-mail reflects and contains comments from counsel                                                                                                                        | Attorney-Client Privileged |
| (14) E-mail from Michelle Morgan, FWS to Ann Klee, DOI re: Final Draft of Proposed Counterpart Regulations                      | 04/18/03 | E-mail contains drafts of regulations with the comments of NOAA counsel Mark Rutzick included in them, and reflect in changes to 2 attachments; attachments also withheld | Attorney-Client Privileged |
| (15) E-mail from Don Knowles, NOAA to Michelle Morgan, and NOAA staff FWS re: HFI                                               | 04/18/03 | E-mail contains comments from NOAA counsel Mark Rutzick                                                                                                                   | Attorney-Client Privileged |
| (16) Notes documenting comments in a voicemail from Jean Rice, DOI Office of the Solicitor, notes taken by Michelle Morgan, FWS | 04/18/03 | Notes contain comments from counsel Jean Rice on a draft rule                                                                                                             | Attorney-Client Privileged |
| (17) E-mail from Ann Klee, DOI to Michelle Morgan, FWS re: final edits to HFI Counterpart Regulation                            | 04/21/03 | E-mail message contains comments from Mark Rutzick, counsel for NOAA, and also contains two attachments that contain his comments which are all withheld                  | Attorney-Client Privileged |
| (18) E-mail from Rick Sayers, FWS to Barry Thom, NOAA re: EA for                                                                | 05/02/03 | E-mail is included in the record but one line is redacted which includes a comment                                                                                        | Attorney-Client Privileged |



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| 1986 regulations                                                                                           |          | and request from NOAA counsel                                                                                                                                                                                               |                            |
| (19) E-mail from Barry Thom, NOAA to Michelle Morgan, FWS re: notice and ROC                               | 05/02/03 | E-mail contains comments made by the NOAA Office of General Counsel                                                                                                                                                         | Attorney-Client Privileged |
| (20) E-mail from Gary Frazer, FWS to Rick Sayers, FWS re: DOJ comments counterpart regulations             | 05/22/03 | E-mail contains comments made by DOJ.                                                                                                                                                                                       | Attorney-Client Privileged |
| (21) E-mail from Rick Sayers, FWS to Don Knowles, NOAA re: OMB and DOJ revisions to counterpart regulation | 05/23/03 | E-mail message contains edits made by FWS in reaction to comments made by DOJ and OMB. Attached to e-mail is an underline/strikeout version of the rule with the edits highlighted in it                                    | Attorney-Client Privileged |
| (22) E-mail from Rick Sayers, FWS to Don Knowles, NOAA re: OMB and DOJ revisions to counterpart regulation | 05/23/03 | E-mail message contains edits made by FWS in reaction to and OMB. Attached to e-mail is an underline/strikeout version of the rule with the edits highlighted in it which as the same as item 21 above.                     | Attorney-Client Privileged |
| (23) E-mail from Rick Sayers, FWS to Ann Klee, DOI re: OMB and DOJ revisions to counterpart regulation     | 05/23/03 | E-mail message contains redacted comments made by FWS in light of DOJ comments. (2) Attached to the e-mail is an underline/strikeout version of the rule with the edits highlighted in it which is withheld. (3) Finally, a | Attorney-Client Privileged |

|                                                                                                                                |          |                                                                                                                                                                                                                                                                                                                                                                                                           |                            |
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|                                                                                                                                |          | memorandum attached to the e-mail has language redacted from it as they are comments from DOJ                                                                                                                                                                                                                                                                                                             |                            |
| (24) E-mail from Rick Sayers, FWS to Ruth Solomon, OM re: OMB and DOJ revisions to counterpart regulation                      | 05/23/03 | (1) E-mail message contains redacted comments made by FWS in light of DOJ comments. (2) Attached to the e-mail is an underline/strikeout version of the rule with the edits highlighted in it which is withheld. (3) Finally, a memorandum attached to the e-mail has language redacted from it as they are comments from DOJ. These redactions/withholdings are similar to those made for item 23 above. | Attorney-Client Privileged |
| (25) E-mail message from Rick Sayers, FWS to Michelle Morgan, FWS re: advance copy of counterpart regulations rule             | 05/27/03 | E-mail forwards a message from NOAA which contains communications had with Mark Rutzick, counsel for NOAA. The e-mail also contains the comments of DOJ.                                                                                                                                                                                                                                                  | Attorney-Client Privileged |
| (26) E-mail message from Michelle Morgan, FWS to Barry Thom, NOAA re: OMB comments which forwards an e-mail sent by FWS to OMB | 05/27/03 | (1) E-mail message contains redacted comments made by FWS in light of DOJ comments. (2) Attached to the e-mail is an underline/strikeout version of the rule with the edits highlighted in it which is withheld. (3) Finally, a                                                                                                                                                                           | Attorney-Client Privileged |

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|                                                                                                                                     |          | memorandum attached contains to the e-mail has language redacted from it as they are comments from DOJ (all of these are the same items contained in item 23 and 24 listed above)                                                                                                                                                                                                               |                            |
| (27) E-mail from Rick Sayers, FWS to Ruth Solomon, OMB re: advance copy of healthy forest regulations                               | 05/27/03 | E-mail message contains edits made by FWS in reaction to comments made by DOJ                                                                                                                                                                                                                                                                                                                   | Attorney-Client Privileged |
| (28) E-mail from Rick Sayers, FWS (on Gary Frazer's account) to Ruth Solomon, OMB re: advance copy of healthy forest regulations    | 05/27/03 | E-mail message contains edits made by FWS in reaction to comments made by DOJ and OMB. Attached to e-mail is an underline/strikeout. Also withheld is a version of the rule with the edits highlighted in it. These redactions and withholdings are essentially the same as that contained in item 23,24 and 25 above, but e-mail was resent with a slightly modified version of the draft rule | Attorney-Client Privileged |
| (29) E-mail from Mark Rutzick, NOAA counsel, to Gary Frazer, FWS and others re: advance copy of healthy ESA counterpart regulations | 05/27/03 | E-mail message contains edits made by FWS in reaction to comments made by DOJ, and to some extent, OMB. Attached to e-mail is an underline/strikeout. Also withheld is a version of the rule with the edits highlighted in it. These redactions and withholdings are                                                                                                                            | Attorney-Client Privileged |

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|                                                                                                                                      |          | essentially the same as that contained in item 23, 24 and 25 above, but e-mail was resent with a slightly modified version of the draft rule. Moreover, the e-mail contains communications of Mark Rutzick, NOAA counsel and are being withheld.                                                                                                                                       |                            |
| (30) E-mail from Ann Klee, DOI to Gary Frazer, FWS re: advance copy of Healthy Forest Regulations                                    | 05/27/03 | About 4 lines of text are redacted from the e-mail as text contains changes made in reaction to advice provided by DOJ                                                                                                                                                                                                                                                                 | Attorney-Client Privileged |
| (31) Memorandum from Mark Rutzick, NOAA counsel to HFI Counterpart Reg Drafters/Reviewers re: changes in response to OMB suggestions | 05/27/03 | Memorandum contains changes proposed by counsel to the draft counterpart regulations                                                                                                                                                                                                                                                                                                   | Attorney-Client Privileged |
| (32) E-mail from Rick Sayers, FWS to Gary Frazer, FWS and Ann Klee, DOI re: advance copy of healthy forest regulations               | 05/28/03 | E-mail message contains edits made by FWS in reaction to comments made by DOJ, and to some extent, OMB. Attached to e-mail is an underline/strikeout. Also withheld is a version of the rule with the edits highlighted in it. These redactions and withholdings are essentially the same as that contained in item 29 above. Moreover, the e-mail contains communications between the | Attorney-Client Privileged |

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|                                                                                                            |          | Department and NOAA's counsel Mark Rutzick                                                                                                                                                                                                                                       |                            |
| (33) E-mail from Rick Sayers, FWS to Ruth Solomon, OMB re: advance copy of healthy forest regulations      | 05/28/03 | E-mail message contains edits made by FWS in reaction to comments made by DOJ and OMB, and includes an attachment which reflects comments made by DOJ and OMB                                                                                                                    | Attorney-Client Privileged |
| (34) E-mail from Rick Sayers, FWS to Ruth Solomon, OMB re: latest revision of healthy forest regulations   | 05/28/03 | The e-mail transmits another revision which reflects changes made by Mark Rutzick, NOAA counsel. The changes also relate to comments made by DOJ. Language redacted.                                                                                                             | Attorney-Client Privileged |
| (35) E-mail from Ruth Solomon, OMB to Rick Sayers, FWS re: latest revisions of the counterpart regulations | 05/28/03 | The e-mail transmits another revision which reflects changes made by Mark Rutzick, NOAA counsel. The changes also relate to comments made by DOJ. The draft revisions to the rule are also withheld. Elements of the e-mail are redacted. Same withholdings as in item 34 above. | Attorney-Client Privileged |
| (35) E-mail from Rick Sayers, FWS to Ruth Solomon, OMB re: latest version of counterpart regulations       | 05/28/03 | The e-mail contains a draft version of the rule with comments of NOAA counsel Mark Rutzick contained in it. Language is redacted in the e-mail transmitting the draft                                                                                                            | Attorney-Client Privileged |
| (36) Draft EA with comments from Lynn Johnson,                                                             | 08/27/03 | Draft EA contains comments from DOI counsel                                                                                                                                                                                                                                      | Attorney-Client Privileged |